

## MICHIGAN CONTESTED ELECTION.

APRIL 19, 1860.—Laid upon the table, and ordered to be printed.

Mr. GILMER, from the Committee of Elections, made the following

### REPORT.

*The Committee of Elections, to whom was referred the memorial of William A. Howard, contesting the seat of George B. Cooper as the representative for the first congressional district of Michigan in the 36th Congress, having considered the same and the evidence presented therewith, respectfully submit the following report :*

The first district of Michigan is composed of the four counties of Jackson, Livingston, Washtenaw, and Wayne. The election here contested was held on the 2d day of November, 1858. The whole number of votes cast for representative at this election was 26,189.

Of which there was returned as given for George B. Cooper, the sitting member .....	13,123
For William A. Howard, the contestant.....	13,048
Scattering .....	18

26,189

Plurality for sitting member, 75 votes, as appears by the returns made to the office of secretary of state of Michigan.

The certificate of election was issued to the sitting member on the 30th of November, 1858. The notice of contest, the answer of sitting member, and the taking of testimony in the case, were in accordance with, and by the authority of, the act of Congress of the 19th of February, 1851.

Upon the testimony so taken, the committee proceeded to hear and determine the case ; the amplest opportunity for argument and investigation being allowed to both parties in person, and, so far as they desired, by counsel.

The contestant seeks to overcome and destroy the apparent majority of the sitting member upon several distinct and independent grounds, either of which, if proved, he insists establishes his right to the seat.

The returned member interposed a motion to strike out all the testimony taken by the contestant, for certain alleged informalities and irregularities claimed to appear upon the face of the record. Both parties were fully heard upon this motion, and your committee are of

opinion that no part of the record is irregular, and that it should stand and be considered.

The undersigned proceed to consider the points insisted upon by the contestant in this order:

First. It is insisted that the votes returned for both parties from the 4th ward in the city of Detroit must be deducted from the whole number of votes returned for them, respectively, in the district, for reason of such irregularities and informalities, such clear violations of the statutes of Michigan, and such errors of substance, as to destroy all certainty as to the accuracy of the result, and to make it impossible under the law to give any legal effect to the ballots purporting to have been cast in said ward.

Your committee have carefully considered the evidence upon this branch of the case; and while they would be very unwilling to reject any poll upon mere technicalities, yet, in this case, in the judgment of your committee, the violations of the law were so palpable, and so relate to matters of substance, and produce such uncertainty as to the ballots, (*vide* Tillman and Well's testimony,) that your committee, upon due deliberation, have rejected the poll, and deducted the votes returned for each of the parties in said ward.

Second. It is alleged that the votes returned from the second ward in the city of Detroit should be deducted, for the reason that the polls were in the possession of rioters and prize-fighters throughout the day; and that the obstruction and violence were such as to prevent the legal electors from voting, and so facilitated illegal voting, on the part of those who had no right to vote at all, that the whole poll ought to be rejected.

It seems to be admitted that the board was legally organized in the morning; and while it is shown by four witnesses (*vide* Larned, Jackson, Stebbins, and Hornbeck's testimony) that disorders and obstructions were great, attended by intimidation and violence, it may be difficult to determine what precise amount of disorder, obstruction, and even violence among by-standers adjacent to the polls, should be deemed sufficient to vitiate the election. In the present instance, if the view your committee take of the other branches of the case be correct, the discussion of this question may not be very material. Be this as it may, your committee recommend that the poll stand. If the state of facts proved leave it doubtful whether, on the whole, the poll should be retained or rejected, your committee are of opinion that they will best avoid the establishment of bad precedents, by giving effect to the returns in all cases of doubt.

Third. It is insisted by contestant that the vote of the township of "Grosse Pointe" cannot be counted, for the reason that the polls were opened and the election held at a place two miles distant from the place fixed for holding the election by vote of the town in town meeting.

The election was held at the house of one Charles Wilson. It is claimed by contestant that it was regularly appointed to be held at the house of one Michael Kline, two miles distant. It seems to be admitted by both parties that if it was so appointed by the competent authority, and changed without competent authority, it is fatal, and

the vote cannot be counted. Section 508 of the 1st volume of Michigan Compiled Laws, requires that "the annual and special township meetings shall severally be held at the place in the township where the last township meeting was held, or at such other place therein as shall have been ordered at a previous meeting."

It is clearly proved that this election was, at the annual meeting, ordered to be held at the house of "Michael Kline." If this section of the statute applies to this election there is an end of the question, and the vote must be deducted.

The returned member makes a distinction between the election in question and all "annual and special township meetings," and claims that this section does not apply to this election. In the judgment of your committee it is immaterial whether the section apply to this election or not; for if it do not apply, then the statute is everywhere silent on the subject of determining the place where the November election shall be held. But the proof is clear that it is the general custom in that township for the electors to fix by vote at their annual meeting the place of holding the elections in November. The proof is equally clear that they did so fix it in this particular case. They having so fixed it in accordance with the custom, it could not be changed by any inferior authority, since neither custom nor law sanction any change by any individual or any board known to the law. The fact is proved that it was fixed at Kline's by the electors by vote in the annual meeting, and in accordance with the general custom, and in the absence of all law forbidding it, even if the 508th section does not apply. If the 508th section does apply, then the custom, the fact, and the law concur to make Kline's the legal place. Either way the vote, in the judgment of your committee, must be rejected.

Fourth. Your committee have rejected the vote of the township of Van Buren. The law requires that the board of inspectors shall be constituted of three persons in number. The proof is clear that there were but two. And as there was no board of inspectors known to the law, your committee see no way by which any legal effect can be given to the returned vote. They have, therefore, deducted it, although it can in no way affect the decision of this case, whether it be deducted or retained.

Fifth.—*Illegal and fraudulent votes.*—Your committee have been constrained to deduct a larger number of illegal and fraudulent votes cast for the sitting member than all his returned majority. Under this head they have deducted in all, from the returned vote of the sitting member, one hundred and six (106) votes, as being not only illegal, but many of them grossly fraudulent. Some of them were the result of a deliberate purpose to cheat and defraud. It is, however, due to the sitting member to say that it does not appear that he had personal knowledge of it at the time, or is in any respect personally compromised thereby. Of the illegal and fraudulent votes rejected by your committee, there were cast in the 2d ward of the city of Detroit at least fifty-eight (58) votes, and the testimony tends strongly to show that there were sixty-two (62.) In regard to the fifty-eight votes your committee think there is no doubt. These votes were cast in pursuance of a deliberate design or conspiracy to defraud. Your

committee, therefore, deduct fraudulent votes cast for sitting member as follows, viz :

	Votes.
Second ward, city of Detroit.....	58
Fifth ward, " " .....	14
Seventh ward, " " .....	1
Eighth ward, " " .....	2
Grosse Pointe township.....	2
Van Buren township at least four votes, while the proof very strongly inclines to 10 votes.....	4
To which your committee have added 25 votes for the number of Canadians brought into the fifth ward of the city of Detroit by Orvis, Stowell, and Smith. As the number is said to be 25 or 30, your committee deduct the smallest number stated.....	25
Whole number.....	<u>106</u>

A detailed statement of the fraudulent votes so deducted by your committee will be found appended to this report.

Upon a review and summary of the whole case your committee find the following result :

The whole number of votes returned for contestant.....	13,048
Deduct votes returned from 4th ward.....	230
Deduct votes returned from Grosse Pointe.....	27
Deduct votes returned from Van Buren.....	104
	<u>361</u>
Leaving votes for contestant.....	<u>12,687</u>
The whole number of votes returned for sitting member.....	13,123
Deduct votes returned from 4th ward.....	492
Deduct votes returned from Grosse Pointe.....	189
Deduct votes returned from Van Buren.....	163
Illegal and fraudulent votes.....	106
	<u>950</u>
Whole number of votes for sitting member.....	<u>12,173</u>
Majority for contestant.....	<u>514</u>

Your committee therefore submit the following resolutions and recommend that the same be adopted by this House :

*Resolved*, That George B. Cooper is not entitled to a seat in the 36th Congress as the representative from the first congressional district of Michigan.

*Resolved*, That William A. Howard is entitled to a seat in the 36th Congress as the representative from the first congressional district of Michigan.

*Detailed statement of fraudulent votes rejected by Committee of Elections.*

## SECOND WARD, CITY OF DETROIT.

Jack Smock	E. O. Keefe
Michael McHugh	Harvey Van Meter
James Martin	Mike Leddy
Charles Ryan	John Crowley
Thomas Payton	Pat. Hill
William Willson	John Carr
R. W. Davis	Jas. Carr
Bunty Davis	Pat. Maloney
Henry Hale	John Breman
John Collins	Dennis Hanready
Dominick Gallagher	— Scott (assumed name)
Tim McCarthy	William Edwards
Isaac Bennett	William Hood
Thomas McCarthy	John Duffy
John O'Sullivan	Dennis Howrigan
Jack Martin	John Hancock
Thomas Burns	John Larryville
Pat. Haley	Theodore Duryea
C. J. Gallagher	Richard Filbur
M. Dougherty	Jerry Sullivan
Joseph Barclay	John McDonnell
Dan. Tibbitts	John Willetts
George Baker	Moses Lapointe
William Miller	Thomas Bell
Nat. Coughlin	Joseph Bowen
C. J. Jubenville	Pat. Sidney
James McCann	Joseph Huser
Pat. Reily	Antoine Gore
A. Patterson	Thomas Clancey.

## FIFTH WARD, CITY OF DETROIT.

Fred. Brooks	John Warden
W. Watriss	Joel Smith
C. B. Orvis	Joseph Warner
John Smith	Thomas Simpson
H. Lutika	John Folger
George Williams	Thomas Hughes
Henry Kelly	John Kolfer.

## SEVENTH WARD, CITY OF DETROIT.

John Kolfer.

## EIGHTH WARD, CITY OF DETROIT.

George Williams

Henry Kelly.



## VAN BUREN TOWNSHIP.

Hiram Fish  
Napoleon Trotter

Edward Sickis  
Edward McIntosh.

## GROSSE POINTE TOWNSHIP.

Michael Griner

Andrew Griner.

In addition to the above, the committee deduct 25 votes for Canadians brought into the fifth ward of the city of Detroit by Orvis, Stowell, and Smith. The proof is clear that from 25 to 30 were brought into the ward and voted the democratic ticket. The committee have deducted the smallest number, viz : 25 votes.

## MINORITY REPORT.

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Mr. GARTRELL, from the Committee of Elections, submitted the following views of the minority of the committee :

The undersigned, members of the Committee of Elections, to whom was referred the memorial of William A. Howard, contesting the seat of George B. Cooper as the representative of the first congressional district of Michigan, submit the following report :

At an election held for representative in Congress for the first congressional district of Michigan on the 2d day of November, 1858, George B. Cooper, the sitting member, received 13,123 votes ; William A. Howard, the contestant, received 13,048 votes, and scattering 18 votes ; and on the 30th day of November, 1858, Mr. Cooper was furnished with the certificate of the secretary of state showing his plurality to be 75 votes. On the 28th day of December, 1858, notice of contest was served upon the returned member, and his answer thereto served upon the contestant on the 26th or 27th of January following, all in compliance with the provisions of the act of Congress approved the 19th of February, 1851.

The notice of contest contains *twenty-two* grounds, mostly of a vague and indefinite character, the objections to which, for want of particularity of specifications, may be considered as waived by the answer of the sitting member, and the issues accepted by him as presented in notice of contest. The said congressional district is composed of four counties—Jackson, Livingston, Washtenaw, and Wayne ; and all the evidence taken and returned relates to *but five places of voting* in the last named county. Seventy-five witnesses were summoned by the contestant, of whom but fifteen appear to have been examined by the parties or their counsel. The case is narrowed down by the admissions and argument of the contestant to *four points*, upon either of which he claims to be entitled to the seat in controversy. He insists that the entire vote at the three following places of voting should be disallowed and rejected : first, the second ward election ; second, the fourth ward election ; third, the “Grosse Pointe” election ; and fourth, that the number of illegal votes cast for the sitting member was greater than his returned majority in the whole district. The aggregate number of votes at the aforesaid places of voting is 1,418, of which number 459 were for the contestant and 959 for the sitting member. To reject this large number of votes, as contended by the contestant, upon the trivial and insufficient evidence furnished, would be an act of great injustice to the sitting member, and a wanton disregard of the elective franchise.

The irregularities complained of in the second ward having been decided unanimously by the Committee of Elections to be unimportant, may be dismissed without remark.

*Fourth ward election.*

The vote in this ward was for—

	Votes.
George B. Cooper.....	492
William A. Howard.....	230
	<hr/>
Majority.....	262
	<hr/>

This entire poll is sought to be thrown out for several alleged irregularities, which may be stated as follows: 1st, because two different ballots are said to have been put in the same box; 2d, because no sufficient poll-lists were kept and locked up in the box; 3d, because the box containing the votes was not sealed as the law requires; 4th, because an unsworn inspector of election is said to have been substituted at 5 o'clock p. m., after the polls were closed. These objections involve mixed questions of law and fact to be settled by the statute laws of Michigan and the evidence in this case. Let us consider them in an inverse order, and see first whether there has been such violation of law as to justify the House in rejecting all the votes polled in this ward.

All the laws applicable to the questions under review will be found in the Compiled Laws of Michigan, vol. 1, sections 42 and 43, are as follows:

SEC. 42. "At the general election, the supervisor, the justice of the peace, not holding the office of supervisor, whose term of office will first expire, and the township clerk of each township, and the assessor and alderman of each ward in a city, or if in any city there be not an assessor in every ward, then the two aldermen of each ward *shall be inspectors of election, two of whom shall constitute a quorum.*

SEC. 43. "In case three of such inspectors shall not attend at the opening of the polls, *or shall not remain in attendance during the election*, the electors present may choose *viva voce* such member of such electors as with the inspector or inspectors, shall constitute a board of three in number, and such electors so chosen *shall be inspectors of the election during the continuance thereof.*"

These provisions are explicit and define unmistakably *what persons* are authorized to act as inspectors. Now, what are the facts? Mr. Dudgeon, an *alderman* of the fourth ward and *ex-officio an inspector of election*, was at the polls in the morning but declined serving, whereupon the electors present *chose viva voce* Captain Katus, who acted until the polls closed at 5 o'clock in the evening. Captain Katus then retired and Mr. Dudgeon took his place *without objection* from the *other inspectors* or the electors present. His duty was simply to officiate with the two other inspectors in counting the poll-lists, examining the ballots, and making up the official returns. The evidence of Mr. Tillman, also an inspector and *warm political supporter* of the contestant, shows that Mr. Dudgeon acted fairly and honestly. At pages 45 and 47 of the evidence, Tillman, upon the cross-examination, says:



" Question. How many acting inspectors were there during the taking in of the votes ?

" Answer. Three ; myself, Lacroix, and Katus.

" Question. Was Lacroix an alderman of the ward ?

" Answer. He was.

" Question. Was Dudgeon an alderman of the ward ?

" Answer. He was, but declined to serve in the morning, and Captain Katus was elected an inspector in his place by the electors present at the polls. I was elected in the same way.

" Question. Did you, Katus, and Lacroix, act as inspectors until the polls were closed ?

" Answer. We did. After closing the ballot-box Katus retired and Dudgeon took his place, and he, Lacroix, and myself, went through with the canvassing of the votes.

" Question. Did you join in the official return of the canvass ?

" Answer. I did.

" Question. Was the official return of the canvass a correct one ?

" Answer. It was not.

" Question. What was the error ?

" Answer. I think there was an error of two votes on governor.

" Question. Was there any error in relation to the votes for Congress ?

" Answer. There was not.

" Question. Are you a republican ?

" Answer. I am.

" Question. How many clerks of election were there ?

" Answer. Four ; and each of them kept a separate poll-list.

" Question. Did all of these poll-lists differ ?

" Answer. They did.

" Question. How much from each other ?

" Answer. I cannot tell ; one of them differed very much from the others ; two of them, however, I think, were nearly correct, and agreed within two or three.

" Question. Did you proceed with the canvass on the same night when the polls closed ?

" Answer. We did ; we first sorted out the general and city tickets in separate piles.

" Question. Did you find any double ballots ?

" Answer. We did, and placed them out by themselves.

" Question. Did you then count the ballots, both for the general ticket and for the city ticket ?

" Answer. We did.

" Question. Were there the same number of each ?

" Answer. There was an excess of State over the city ticket of from five to eight ballots.

" Question. Do you remember whether the general tickets exceeded the number on the poll-lists ?

" Answer. They did from five to eight.

" Question. What was done with these ?

" Answer. We looked over the tickets and made up our minds

which ought to be thrown out ; they were those which appeared to have been voted double.

“ Question. Were the tickets destroyed democratic or republican ?

“ Answer. I don't know ; but I think they were half and half.

“ Question. Were not the ward and general tickets of both parties easily distinguished from each other ?

“ Answer. That depended upon the manner in which they were folded ; if you could see the head of the ticket, they were.

“ Question. Were the boxes both sealed and locked on the first night after election ?

“ Answer. They were.

“ Question. Did you not canvass the vote for representative in Congress during the next day ?

“ Answer. We did.

“ Question. Did you find after that, and before making your official returns, any discrepancy in the ballot on representative in Congress as if there had been any tampering with the ballots ?

“ Answer. We did not.

“ Question. Have you any reason to believe, or do you believe, from the time the polls closed to the signing of the official returns, that there was any tampering or foul dealing with the ballots cast in that ward ?

“ Answer. I do not.”

It will thus be seen that the poll-lists were made to correspond according to the provisions of the statute ; that the boxes were both *sealed and locked* ; that there was no tampering with the ballots, and that the *official returns* of this ward were *correctly made*.

But it is said that Mr. Dudgeon was *not sworn*. This charge is also contradicted by the contestant's own *friend and witness*, Tilman, as follows :

“ Question. Do you hold in your hand the official oaths as inspectors of election of yourself, Dudgeon, and Lacroix ?

“ Answer. I do ; the bodies of the oaths are in the handwriting of Mr. Dudgeon.

“ Question. Do you know Dudgeon's signature ?

“ Answer. I do.

“ Question. When did Dudgeon sign this ?

“ Answer. On the 5th or 6th of November, three days after the election ; the date of the jurat is on Tuesday, the 2d, but it was not signed till Friday, 5th ; Lacroix, Katus, and myself were sworn before we entered upon our duties, but I have no knowledge of Dudgeon's being sworn at all ; we signed our oaths on Friday, or the day when we made our official returns, some days after election.

“ Question. Do you know whether Dudgeon was sworn or not ?

“ Answer. I do not ; he was not sworn in my presence.

“ Question. By whom is the jurat of Dudgeon's oath signed ?

“ Answer. By Alderman Lacroix ; I know his signature, and by that jurat the oath purports to have been administered on the 2d November ; as Dudgeon was not sworn in my presence, I do not know that he was sworn at all.”

This testimony would seem to dispose of the irregularities complained of at this ward.

*"Grosse Pointe" election.*

At this precinct there were—

For George B. Cooper..... 189 votes.

For William A. Howard..... 27 "

Shall this poll be excluded because, as charged by contestant, the place of voting was changed from Kline's to Wilson's? We think not. Section 508, vol. 1, C. L. of Michigan, cited by contestant, refers exclusively to *township meetings*, and not to *general elections*. It provides that "the *annual and special township meetings* shall be held at the place in the township where the last *annual meeting* was held, or at such other place there as shall have been ordered at a previous meeting." Will it be seriously contended that the regulations for these annual township meetings apply to general State elections held *biennially*? On this point we have, fortunately, no room for doubt. Section 41 of the same volume contains this clause:

"The township clerk, or inspector of elections, receiving either of the notices directed in this act to be delivered to him, shall, by notice in writing under his hand, give at least ten days' notice to the electors of the township or ward of the *time and place* at which such election is to be held and the officers to be chosen; and such township clerk or inspector shall cause such notices to be posted up in at least three of the most public places in the said township or ward."

In obedience to this law, the township clerk gave notice of the time, and fixed the *place* of election at Wilson's, where it seems the voters of Grosse Pointe assembled and voted.

Mr. Moran, page 25, says:

"Question. Was the election held at the place where it was advertised to be held by public notice?

"Answer. I did not see the notice, but I understood it was noticed to be held at Wilson's; such was the current report.

"Question. Have you been informed by the supervisor of the town that the town board had designated Wilson's place to hold the election at?

"Answer. *I have.* There was a good deal of excitement in the town, and I think one of our town board told me they had consulted Levi Bishop, esq., Mr. Howard's law partner, in relation to it.

"Question. Did the persons who told you that they had gone to Kline's come to Wilson's?

"Answer. *They did.*

"Question. Do you know of any person who was prevented from voting that day in consequence of not knowing where the polls were held?

"Answer. *I never heard of such.*"

The undersigned submit that the election held at the house of Wilson, in the township of "Grosse Pointe," was in all respects legal, and should be so considered by this House.

One other ground of contest remains to be examined. Has the sitting member received illegal votes enough to overcome his official majority and entitle the contestant to the seat? An answer to this inquiry can only be had by a strict and scrutinizing examination of the evidence relating to persons charged with having voted fraudulently. The contestant contends that the proof shows 108 illegal votes for the returned member, and charges that 60 of these were cast in the *second ward* of the city of Detroit, 14 in the fifth ward, 2 in "Grosse Pointe," 2 in the eighth ward, 1 in the seventh ward, 25 which *he says* were cast by the "Orvis men," and 4 in the town of Van Buren. We will consider these votes in the order suggested by the contestant.

1. *The second ward of the city of Detroit.*

Of the 60 votes attacked in this ward, the undersigned find 9 of that number to have been legal, 11 doubtful, the remaining 40 being known as Howrigan's men. Mr. Howrigan, with whom these 40 men boarded, swears (page 23) that 16 of them were *known to him* to be legal voters. He also swears, at page 23, that 5 others who boarded with him *did not vote*. We have, then, in this view, the following result:

In second ward votes attacked by contestant.....	60
Deduct legal votes.....	25
Deduct not voting.....	5
	— 30
	—
	30
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We submit that none of the votes attacked in the second ward can be thrown out, unless it be the 9 doubtful above mentioned. Mr. Larned, speaking of these voters, (page 14,) says:

"Question. How do you know the persons named in the first list voted the democratic ticket?

"Answer. I judge so from the general appearance of the outside of the ballot. The ballots of the different parties were entirely dissimilar.

"Question. Were not the ballots, when put in by the several voters, so folded as to conceal the names of the persons voted for?

"Answer. They were.

"Question. Did not the ballots containing the name of the person voted for for representative also contain a number of other names voted for for the various State and county officers, and also members of the legislature?

"Answer. They did.

"Question. Did not the ballots, when full, contain eighteen or twenty names?

"Answer. They did.

"Question. As to the names contained in your second list, do you

mean to say they did not reside in the second ward on the 2d day of November last?

"Answer. I do not mean to say so.

"Question. Are there not a great many persons residing in the second ward whom you do not know?

"Answer. There are."

Mr. Howrigan, who is the only other witness as to these votes being illegal, says, pages 21, 22 :

"Question. Do you know whether these men were legal voters in the wards where they properly resided?

"Answer. *I do. As to many of them, I knew that they were voters, and all of them told me that they were.*

"Question. Had all of these men resided in the ward ten days before the election?

"Answer. *They had.* And some of them longer.

"Question. Were these men day-laborers?

"Answer. They were mechanics, laborers, sailors, and young men out of employment; and, so far as I know, they were legal voters in this ward. I base this opinion on the constitution and law, and their residence of ten days in the ward. I refer to section 1, article 7, of the constitution of Michigan, where the qualifications of voters are laid down. I knew the qualifications of an elector before the election. Only one had a wife."

On page 24, Mr. Howrigan says :

"Question. *Do you remember whether these men were challenged on the day of election?*

"Answer. *They were all challenged and swore their votes in accordance to the statute.*

"Question. *Were all the men who boarded with you challenged on election day?*

"Answer. *They were, and swore in their votes, except one O'Callaghan.*"

It will be observed that the persons who boarded at Howrigan's, and voted, are attacked as non-residents. No witness *has sworn that they resided out of the State of Michigan.* Mr. Howrigan says "all these men had resided in the ward *ten days before the election,*" and that their votes were all *challenged.* Sections 107 and 108 of statutes of Michigan prescribe the qualifications of voters. This law provides—

"If any person offering to vote shall be challenged as unqualified by any inspector or any elector entitled to vote at that poll, the chairman of the board of inspectors shall declare to the person challenged the constitutional qualification of an elector; and if such person shall state that he is a qualified elector, and the challenge is not withdrawn, one of the inspectors shall tender to him one of the following oaths, as he may claim to contain the grounds of his qualifications to vote: *You do solemnly swear (or affirm) that you are twenty-one years of age; that you are a citizen of the United States; that you have RESIDED in this State three months next preceding this day, and in this township*



(or ward, as the case may be) ten days next preceding this day, and that you have not voted at this election ;” (or one of the other forms in the statute—all of which are the same as to residence in the State and ward, and having voted.)

“And if such person so challenged will take either of the above oaths, his vote shall be received; but if such person shall therein swear falsely, upon conviction thereof, he shall be liable to the pains and penalties of perjury.”

In the town of Grosse Pointe two votes were attacked by two witnesses, Daniel and John Corby. These voters were Michael and Andrew Griner. In the direct examination, Daniel Corby (page 56) testifies that there were two persons who voted in that township who did not reside there, and he named Michael and Andrew Griner; but what further did he say?

“Question. *What ticket did they vote?*

“Answer. *I cannot tell; I did not see the tickets at all; I suppose they were democrats.*

When cross-examined, (page 57,) he said:

“Question. Do you know whether the Griner brothers had not resided in the township ten days before election?

“Answer. *I do not. They may for aught I know.*

“Question. Do you mean to say they were illegal voters at the November election?

“Answer. *I cannot swear that they were.*”

And John Corby swears, (page 58,) in his cross-examination as follows:

“Question. Do you know whether the Griner brothers had resided in Grosse Pointe for ten days before election?

“Answer. *I do not.*

“Question. Do you know whether or not they were voters in Grosse Pointe in November?

“Answer. *I do not.*”

Such is the character of the evidence of the illegal votes in the township of Grosse Pointe.

We come now to the illegal votes in the township of Van Buren. David Carr swears, (see page 61,) that he knows four, viz: Hiram Fish, Napoleon Trotter, Edwin Sichis, Edward McIntosh, were illegal voters. And he gives a list of six *he believes* were not entitled to vote. In his cross-examination, (see page 62,) he was asked, severally—

“What ticket each one of the persons named voted, and he answered as to all, *that he did not know.*” And some of them he does not pretend to even have seen vote. It does not raise even a presumption. His testimony is just as good to prove they voted for Howard as Cooper, and that amounts to just nothing at all.

This brings us to the *fifth* ward. The first witness is David Smith. He swears to—

1. Fred. Brooks.....No. 299	4. John Smith.....No. 54
2. W. Watriss..... 236	5. H. Lutika..... 485
3. C. B. Orvis..... 478	

When asked, on direct examination, (see pp. 34, 35,) as to Lutika: Do you know whether or not he was a legal voter? he said *he did not*. And as to Orvis, when asked how he knew that he voted the democratic ticket? he replied that he had a democratic ticket when he started to the polls, though I did not see him put it in. And on page 38, when speaking not only of these persons named, but all of the Orvis voters, he said:

“ Question. Can you state whether the votes put in by Orvis men were illegal?

“ Answer. I cannot, of my own personal knowledge.

“ Question. How many republican tickets did you give to the Orvis men?

“ Answer. I cannot say exactly, but there was a good many.

“ Question. Do you know what ticket these Orvis men voted?

“ Answer. I do not know what ticket they voted; *no man can tell*.

“ Question. Do you know how many there were of the Orvis men?

“ Answer. *I do not know.*”

We submit that no sufficient proof has been adduced to authorize the conclusion that any number of votes should be deducted in either of the last-named precincts.

Andrew K. Edgar, who, it will be recollected, was examined *on the last day* allowed by the statute of 1851 for taking evidence, impeaches, we think successfully, the following votes, viz:

1. George Williams,	6. Thomas Simpson,
2. Henry Kelly,	7. John Falger,
3. John Warden,	8. Thomas Hughes,
4. Joel Smith,	9. John Kalijar.
5. Joseph Warner,	

His testimony is positive; and in the absence of proof attacking his veracity, we do not feel at liberty to disregard it, although none of the above names are on the *poll lists*.

The undersigned, having examined the several grounds relied upon by the contestant, and being satisfied from the evidence that the sitting member was fairly and legally elected, submit the following resolution:

*Resolved*, That George B. Cooper is entitled to retain his seat in the present Congress as the representative of the first congressional district of Michigan.

LUCIUS J. GARTRELL,  
W. W. BOYCE.

I concur in the result arrived at in foregoing resolution.

J. W. STEVENSON.

1. Fred Brooks.....	No. 128	A. John Smith.....	No. 141
2. W. Warren.....	128	B. H. Fisher.....	141
3. C. H. Davis.....	128		

When asked, on direct examination (see pp. 24, 25), as to whether he knew whether or not he was a legal voter, he said he did not. And as to O'Connell, when asked how he knew that he voted the democratic ticket? he replied that he had a democratic ticket when he started to the polls, though I did not see him put it in. And on page 25, when speaking not only of these persons named, but all of the O'Connell voters, he said:

"Question. Can you state whether the vote put in by O'Connell voters was illegal?"

"Answer. I cannot, of my own personal knowledge."

"Question. How many republican tickets did you give to the O'Connell voters?"

"Answer. I cannot say exactly, but there was a good many."

"Question. Do you know what ticket those O'Connell voters voted?"

"Answer. I do not know what ticket they voted; no one can tell."

"Question. Do you know how many there were of the O'Connell voters?"

"Answer. I do not know."

We submit that no sufficient proof has been adduced to authorize the conclusion that any number of votes should be deducted in either of the last-named precincts.

Andrew K. Edgar, who, it will be recollected, was examined on the last day allowed by the statute of 1851 for taking evidence, impeached, we think successfully, the following votes, viz:

1. George Williams,	2. Thomas Simpson,
2. Henry Kelly,	3. John Fisher,
3. John Warren,	4. Thomas Fisher,
4. Joel Smith,	5. John Kellor,
5. Joseph Warner,	

His testimony is positive; and in the absence of proof attacking his veracity, we do not feel at liberty to disregard it, although some of the above names are on the poll list.

The undersigned, having examined the several grounds relied upon by the contestant and being satisfied from the evidence that the voting member was fairly and legally elected, submit the following resolution:

Resolved, That George H. Cooper is entitled to retain his seat in the present Congress as the representative of the first congressional district of Michigan.

W. W. BUTCH

W. W. BUTCH

W. W. BUTCH

W. W. BUTCH

W. W. BUTCH

W. W. BUTCH

W. W. BUTCH